

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2011-109-C - ORDER NO. 2011-360
MAY 13, 2011

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| IN RE: Application of GC Pivotal, LLC for a |) | ORDER APPROVING |
| Certificate of Public Convenience and |) | CERTIFICATE |
| Necessity to Provide Local Exchange and |) | |
| Interexchange Telecommunication Services |) | |
| and for Alternative Regulation and Flexible |) | |
| Regulation |) | |

This matter comes before the Public Service Commission of South Carolina (the "Commission") by way of the Application of GC Pivotal, LLC ("Applicant", "GC Pivotal" or the "Company") for authority to provide local exchange and interexchange telecommunications services within the State of South Carolina (the "Application").

Further, the Company requests that the Commission regulate its local retail telecommunications services in accordance with the principles and procedures established for flexible regulation in Order No. 98-165 in Docket No. 97-467-C. In addition, the Company requests that the Commission regulate its business interexchange service offerings under modified alternative regulation as set forth in Order Nos. 95-1734 and 96-55 in Docket No. 95-166-C.

The Company's Application was filed pursuant to S.C. Code Ann. Section 58-9-280, S.C. Code Ann. Section 58-9-585 and the Rules and Regulations of the Commission. By letter, the Commission instructed the Applicant to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the areas affected by the

Application. The purpose of the Notice of Filing was to inform interested parties of the manner and time in which to file the appropriate pleadings for participation in this proceeding. The Company complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. A Petition to Intervene was received from the South Carolina Telephone Coalition ("SCTC").

Subsequently, counsel for SCTC filed with the Commission a Stipulation between SCTC and the Applicant. The SCTC withdrew its opposition to the granting of a statewide Certificate of Public Convenience and Necessity to the Company, provided the conditions contained in the Stipulation are met. The Stipulation is approved and attached as Order Exhibit 1.

A hearing was commenced on May 9, 2011, at 10:00 a.m., in the Offices of the South Carolina Public Service Commission. The Honorable F. David Butler, Hearing Examiner, presided. Scott Elliott, Esquire, represented the Company. C. Lessie Hammonds, Esquire represented the Office of Regulatory Staff. Richard Garner, Secretary and Treasurer of the Applicant, appeared and testified in support of the Application.

According to the record, GC Pivotal is a Delaware Limited Liability Company. Mr. Garner testified that the Applicant is seeking certification in South Carolina. The Applicant has received authority from the South Carolina Secretary of State to transact business within the State of South Carolina.

According to Mr. Garner, GC Pivotal seeks authority to provide telecommunication services throughout the State of South Carolina. GC Pivotal will

offer resold data circuits by utilizing the facilities of incumbent local exchange carriers (“LECs” and other facilities-based carriers). GC Pivotal will not own its own circuits or fiber. GC Pivotal will resell Layer One (DS-1s & OCNs), Layer Two (ATM and Frame Relay) and Layer Three (MPLS) data circuits to business customers only. No voice services will be provided. All services will be provided pursuant to contracts between GC Pivotal and its customers. GC Pivotal has no plans to install either purchased or leased facilities in the State of South Carolina.

Mr. Garner further testified regarding the managerial experience of the Applicant; that GC Pivotal had substantial financial resources to ensure the viability of the Company.

Mr. Garner finally testified that granting GC Pivotal’s Application will introduce a telecommunications service provider committed to providing high-quality, innovative, and technologically advanced services that will further increase telecommunications competition in the State of South Carolina. He opined that the Commission's granting of the Application is therefore in the public interest.

Mr. Garner asserted that the Company will operate in compliance with all applicable statutes, regulations, and Commission orders. Further, Mr. Garner testified that GC Pivotal has never had authority denied in any state where it has applied for authority, nor has the company had authority revoked in any state where it has been granted authority. Mr. Garner stated that the Company will abide by all applicable Commission rules, regulations and orders upon the Company receiving certification to

provide intrastate interexchange and local exchange telecommunications services in South Carolina.

The Applicant has requested certain waivers of Commission regulations. The Company requests that it be exempt from any rules or regulations that would require it to keep financial records in conformance with the Uniform System of Accounts ("USOA"). The Company maintains its book of accounts in accordance with Generally Accepted Accounting Principles ("GAAP"). Additionally, the Company seeks a waiver of 26 S.C. Code Ann. Regs. 103-631, so that it will not be required to publish local exchange directories. The Company will contract with at least one incumbent local exchange carrier (or its directory publishing affiliate) for the inclusion of the Company's CLEC databases into the master customer database of the local exchange carrier.

The Applicant also requested that the Company be granted a waiver of 26 S.C. Code Ann. Regs. 103-610, so that the Company be permitted to maintain its records outside of South Carolina. The Company wishes to maintain its books and records at its headquarters at its principal place of business in Florida. Last, the Company testified that, since the Applicant's local exchange calling areas will initially mirror the service area of the incumbent local exchange carriers, the Applicant requested a waiver of the map filing requirement of 26 S.C. Code Ann. Regs. 103-612.2.3 and 103-631.

After full consideration of the applicable law, the Company's Application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

FINDINGS OF FACT

1. The Company is a duly organized corporation which exists under the laws of the State of Delaware and has been authorized to do business in the State of South Carolina by the Secretary of State.

2. The Company is a provider of local exchange and interexchange telecommunications services and wishes to provide its services in South Carolina.

3. The Company has the managerial, technical, and financial resources to provide the services as described in its Application. S.C. Code Ann. Section 58-9-280 (B)(1)

4. The Commission finds that the Company's "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. Section 58-9-280 (B)(3).

5. The Commission finds that the Company will support universally available telephone service at affordable rates. S.C. Code Ann. Section 58-9-280 (B)(4).

6. The Commission finds that the services to be provided by the Company will meet the service standards of the Commission. S.C. Code Ann. Section 58-9-280 (B)(2).

7. The Commission finds that the provision of local exchange service by the Company "does not otherwise adversely impact the public interest." S.C. Code Ann. Section 58-9-280 (B)(5).

8. Following execution of the Stipulation with the SCTC, the SCTC has withdrawn its opposition to the Application.

CONCLUSIONS OF LAW

1. The Commission concludes that the Company possesses the managerial, technical, and financial resources to provide the competitive local exchange and interexchange telecommunications services as described in the Application.

2. The Commission concludes that the Company's "provision of service will not adversely impact the availability of affordable local exchange service."

3. The Commission concludes that the Company will participate in the support of universally available telephone service at affordable rates to the extent that the Company may be required to do so by the Commission.

4. The Commission concludes that the Company will provide services that will meet the service standards of the Commission.

5. The Commission concludes that the provision of local exchange services by the Company will not otherwise adversely impact the public interest.

6. Based on the above findings of fact, the Commission determines that a statewide Certificate of Public Convenience and Necessity should be granted to the Company to provide competitive local exchange services. In addition, the Company is granted authority to provide intrastate interexchange services through the resale of services offered by other carriers in accordance with tariffs approved by the Commission.

7. The Commission concludes the Company's local exchange telecommunications services shall be regulated in accordance with the principles and procedures established for flexible regulation first granted to NewSouth Communications by Order No. 98-165 in Docket No. 97-467-C. Specifically, the Commission adopts for

the Company's competitive intrastate local exchange services a rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels that will have been previously approved by the Commission. Further, the Company's local exchange service tariff filings are presumed valid upon filing, subject to the Commission's right, within thirty (30) days, to institute an investigation of the tariff filing, in which case the tariff filing would be suspended pending further Order of the Commission. Further, any such tariff filings will be subject to the same monitoring process as similarly situated competitive local exchange carriers.

8. The Commission adopts a rate design for the long distance services of the Company consistent with the principles and procedures established for alternative regulation of business service offerings set out in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C and modified by Order No.2001-997.

9. Under the Commission approved, modified alternative regulation, the business service offerings of the Company, including consumer card services and operator services, are subject to a relaxed regulatory scheme identical to that established in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C. However, pursuant to Order No. 2001-997 (Docket No. 2000-407-C), this Commission has modified alternative regulation by the re-imposition of rate caps with regard to certain "operator-assisted calls" where a customer uses a local exchange carrier's calling card to complete calls from locations which have not selected that local exchange carrier as the toll provider. Order No. 2001-997, dated November 8, 2001, imposed a maximum cap of \$1.75 for operator surcharges for such calls, and a maximum cap of \$0.35 related to the flat per-

minute rate associated with these calls. Under this relaxed regulatory scheme, tariff filings for business services shall be presumed valid upon filing. The Commission will have seven (7) days in which to institute an investigation of any tariff filing. If the Commission institutes an investigation of a particular tariff filing within the seven days, the tariff filing will then be suspended until further Order of the Commission. Any relaxation in the future reporting requirements that may be adopted for similar carriers shall apply to the Company also.

10. With regard to the residential interexchange service offerings of the Company, the Commission adopts a rate design that includes only maximum rate levels for each tariff charge. The Commission has previously adopted a rate structure incorporating maximum rate levels. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

11. With regard to residential interexchange service rates, the Company shall not adjust its residential interexchange service rates below the approved maximum levels without notice to the Commission and to the public. The Company shall file its proposed rate changes, publish notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances that do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications, Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level for residential interexchange services reflected in the tariff

which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. §58-9-540.

12. We conclude that the Applicant's request for waiver of 26 S.C. Code Ann. Regs. 103-610 should be granted, since strict compliance with the regulation potentially causes undue hardship on the Company. We also grant exemption from the policies requiring the use of USOA. In addition, we grant waiver of 26 S.C. Code Ann. Regs. 103-631, which requires publication of a local telephone directory. Last, we grant a waiver of 26 S.C. Code Ann. Regs. 103-612.2.3, which requires filing a map of the service territory.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED THAT:

1. A Certificate of Public Convenience and Necessity is granted to GC Pivotal, LLC to provide competitive local exchange and interexchange telecommunications services.

2. The terms of the Stipulation between the Company and the SCTC is approved and adopted as part of this Order. The Stipulation is attached as Order Exhibit No. 1. Any proposal to provide competitive local exchange telecommunications services to rural service areas is subject to the terms of the Stipulation.

3. The Company shall file within thirty (30) days of receipt of this order its local service tariff and long distance tariff with the Commission. The Company agrees it will file its final, revised tariffs utilizing the Commission's e-filing system for tariffs. The revised tariffs should be electronically filed in a text searchable PDF format using the

Commission's DMS System (<http://dms.psc.sc.gov>). An additional copy should be sent via email to etariff@psc.sc.gov to be included in the Commission's ETariff System (<http://etariff.psc.sc.gov>). Future revisions to the tariffs should be made using the ETariff System. The revised tariffs shall be consistent with the findings of this Order and shall be consistent with the Commission's Rules and Regulations.

5. The Company is subject to access charges pursuant to Commission Order No. 86-584, in which the Commission determined that, for access charge purposes, resellers should be treated similarly to facilities-based interexchange carriers.

6. With regard to the Company's interexchange services, an end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.

7. To the extent the Company resells interexchange services, the Company shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If the Company changes underlying carriers, it shall notify the Commission in writing.

8. With regard to the origination and termination of toll calls within the same LATA, the Company shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993), with the exception of the 10-XXX intraLATA dialing requirement, which has been rendered obsolete by the toll dialing parity rules established by the Federal Communications Commission ("FCC"), pursuant to the Telecommunications Act of 1996 (See. 47 CFR 51.209). Specifically, the Company shall comply with the imputation

standard as adopted by Order No. 93-462 and more fully described in paragraph 4 of the Stipulation and Appendix B approved by Order No. 93-462.

9. GC Pivotal shall comply with Title 23, Chapter 47, South Carolina Code of Laws Annotated, which governs the establishment and implementation of a "Public Safety Communications Center," which is more commonly known as a 911 system" or "911 service." Services available through a 911 system include law enforcement, fire, and emergency medical services. In recognition of the necessity of quality 911 services being provided to the citizens of South Carolina, the Commission hereby instructs the Company to contact the appropriate authorities regarding 911 service in the counties and cities where the Company will be operating. Contact with the appropriate 911 service authorities is to be made before beginning telephone service in South Carolina. Contact with the appropriate authorities is to be made before providing voice or dial tone telephone service in South Carolina. Accompanying this Order is a memo from the State 911 Office at the Office of Research & Statistics of the South Carolina Budget and Control Board. This memo provides information about contacting County 911 Coordinators. By this Order and prior to providing voice or dial-tone services within South Carolina, GC Pivotal is directed to contact the 911 Coordinator in each county, as well as the 911 Coordinator in each city where the city has its own 911 system, and shall provide information regarding the Company's operations as required by the 911 system.

10. The Applicant shall file annual financial information in the form of annual reports and gross receipts reports as required by the Commission. The annual report and the gross receipt report will necessitate the filing of intrastate information. Therefore, the

Company shall keep financial records on an intrastate basis for South Carolina to comply with the annual report and gross receipts filings. The proper form for filing annual financial information can be found at the ORS's website at www.regulatorystaff.sc.gov. The title of this form is "Telecommunications Company Annual Report." This form shall be utilized by the Applicant to file annual financial information as directed by the Commission or ORS and shall be filed no later than April 1st of each year.

Commission gross receipts forms are due to be filed with the Commission and ORS no later than August 31st of each year. The proper form for filing gross receipts information can be found at the ORS website at www.regulatorystaff.sc.gov; the appropriate form is entitled "Gross Receipts Form."

Each telecommunications company certified in South Carolina is required to file annually with the ORS the Intrastate Universal Service Fund ("USF") worksheet, which may be found on the ORS's website at www.regulatorystaff.sc.gov. This worksheet provides ORS information required to determine each telecommunications company's liability to the State USF fund. The Intrastate USF worksheet is to be filed annually no later than July 1st with the ORS.

11. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission and ORS in writing the name of authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. GC

Pivotal shall file the names, addresses, and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The “Authorized Utility Representative Information” form can be found at the ORS website at www.regulatorystaff.sc.gov; this form shall be utilized for the provision of this information to the Commission and ORS. Further, the Company shall promptly notify the Commission and ORS in writing if the representatives are replaced.

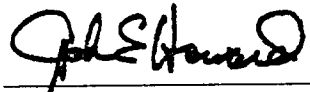
12. The Company shall conduct its businesses in compliance with Commission decisions and Orders, both past and future.

13. By its Application, the Company requested a waiver of 26 S.C. Code Ann. Regs. 103-631. In lieu of publishing local directories, the Company informs the Commission that it will contract with the incumbent LECs to provide the Company's customers with directory listings, as well as to undertake the distribution of directories. The Commission finds the Company's request reasonable and grants the requested waiver of the application of 26 S.C. Code Ann. Regs. 103-631. Further, the Company is granted a waiver of 26 S.C. Code Ann. Regs. 103-610, requiring the Company to maintain its financial books and records within the State of South Carolina. The Company is hereby granted permission to maintain its financial books and records at its principal place of business. Further, the Company is granted a waiver of the requirement that books and records be maintained in accordance with the Uniform Systems of Accounts ("USOA"). The Company is directed to comply with all Rules and Regulations of the Commission, unless the Commission specifically waives compliance with a regulation. Last, the

Commission grants the Applicant's request for the waiver of the requirement that it file a map of its service territory as required by 26 S.C. Code Ann. Regs. 103-612.2.3.

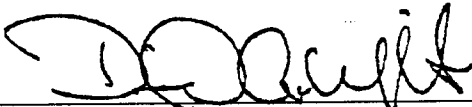
14. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



John E. Howard, Chairman

ATTEST:



David A. Wright, Vice Chairman

(SEAL)

STATE OF SOUTH CAROLINA
State Budget and Control Board
OFFICE OF RESEARCH & STATISTICS

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1000 ASSEMBLY STREET, SUITE 425
COLUMBIA, SOUTH CAROLINA 29201

Bobby Bowers
DIRECTOR

August 2, 2004

To: Telephone Companies New to South Carolina

In an effort to continue providing quality emergency services to the citizens of South Carolina, the State 911 Office requests that before beginning telephone services in a county, you contact the 911 Coordinator in that county. This will allow both parties to obtain important information about providing 911 services in that county. If you have already begun services, then contact the coordinator as soon as possible.

A list of County 911 Coordinators can be found on the South Carolina E911 homepage at www.ors.state.sc.us/digital/E-911.ASP. If you have any questions related to 911 in South Carolina, you may contact E911 Coordinations at the Office of Research and Statistics at 803-734-3883. The person responsible for this can also be found on the 911 homepage. Please be aware that some cities may have their own E911 systems, these are also listed on the 911 homepage. These city coordinators will need to be contacted in addition to the county coordinators.

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

Docket No. 2011-109-C

Re: Application of GC Pivotal, LLC for a)
Certificate of Public Convenience and)
Necessity to Provide Local Exchange)
And Interexchange Telecommunications)
Services in the State of South Carolina)
_____)

STIPULATION

The South Carolina Telephone Coalition ("SCTC") (see attachment "A" for list of companies) and GC Pivotal, LLC ("GC Pivotal") hereby enter into the following stipulations. As a consequence of these stipulations and conditions, SCTC does not oppose GC Pivotal's Application. SCTC and GC Pivotal stipulate and agree as follows:

1. SCTC does not oppose the granting of a statewide Certificate of Public Convenience and Necessity to GC Pivotal, provided the South Carolina Public Service Commission ("Commission") makes the necessary findings to justify granting of such a certificate, and provided the conditions contained within this stipulation are met.
2. GC Pivotal stipulates and agrees that any Certificate which may be granted will authorize GC Pivotal to provide service only to customers located in non-rural local exchange company ("LEC") service areas of South Carolina, except as provided herein.
3. GC Pivotal stipulates that it is not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas.
4. GC Pivotal stipulates and agrees that it will not provide any local service, by its own facilities or otherwise, to any customer located in a rural incumbent LEC's service area, unless and until GC Pivotal provides such rural incumbent LEC and the Commission with written notice of its

intent to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. Also, GC Pivotal acknowledges that the Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while the Commission conducts any proceeding incident to the Petition or upon the Commission's own Motion, provided that the Commission can further suspend the implementation date upon showing of good cause.

5. GC Pivotal stipulates and agrees that, if GC Pivotal gives notice that it intends to serve a customer located in a rural incumbent LEC's service area, and either (a) the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law within such 30-day period, or (b) the Commission institutes a proceeding of its own, then GC Pivotal will not provide service to any customer located within the service area in question without prior and further Commission approval.

6. GC Pivotal acknowledges that any right which it may have or acquire to serve a rural telephone company service area in South Carolina is subject to the conditions contained herein, and to any future policies, procedures, and guidelines relevant to such proposed service which the Commission may implement, so long as such policies, procedures, and guidelines do not conflict with Federal or State law.

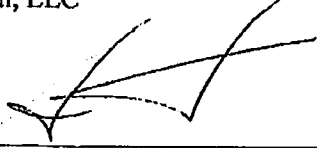
7. The parties stipulate and agree that all rights under Federal and State law are reserved to the rural incumbent LECs and GC Pivotal, and this Stipulation in no way suspends or adversely affects such rights, including any exemptions, suspensions, or modifications to which they may be entitled.

8. GC Pivotal agrees to abide by all State and Federal laws and to participate, to the extent it may be required to do so by the Commission, in the support of universally available telephone service at affordable rates.

9. GC Pivotal hereby amends its application and its prefiled testimony in this docket to the extent necessary to conform with this Stipulation.

AGREED AND STIPULATED to this 2nd day of May,
2011.

GC Pivotal, LLC



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